IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2780 OF 2005

Vasudeo Balkrishna Chawhan. ... Petitioner
Versus.
The State of Maharashtra & others. ... Respondents.

Shri C.K.Tripathi for the Petitioner.
Shri Milind More, A.G.P. for Respondents Nos.1, 3 and 4.
Shri G.D.Utangale for Respondent No.2.
Shri R.M.Yadav for Respondent No.5.

CORAM : H.L.GOKHALE, &
ABHAY S. OKA, JJ.

DATED : 25th JANUARY, 2006.

P.C.:

1. Heard Shri Tiwari in support of this petition. Shri More, A.G.P. appears for Respondents Nos.1, 3 and 4. Shri Utangale appears for Respondent No.2 and Shri Yadav appears for Respondent No.5. Rule made returnable forthwith and all the Counsel are heard.

2. Respondent No.3 has filed a reply who is the officer in-charge of the enforcement and removal. The petition seeks to challenge the order dated 13th July 2005 passed by Respondent No.2 whereby the earlier view taken by Respondent No.2 has been confirmed that the Petitioner is not eligible for being considered under the Slum Redevelopment Scheme which is being carried out by Respondent No.5 on final plot of land bearing Nos.367, 368, and 342, in T.P.S.No.5 of Vile Parle, Taluka Andheri. This order is passed pursuant to the remand by this Court, after the petition against the earlier order was allowed by the Single Judge on 6th August 2005 being Writ Petition No.1313 of 2005. The

order passed by Respondent No.2 accepts that the hutment of the Petitioner is within the area of the scheme which is being developed. It is however, contended by Shri More and Shri Utangale that, according to the Respondents, the Petitioner has extended his structure into this particular plot, though according to them it was situated on the border of the concerned plot. Nothing of the kind has been stated in the impugned order.

3. Shri Tiwari has shown us the voters list from the concerned electoral roll. The name of the Petitioner and his wife appear at Sr.No.750 and 751 of the concerned part. He has also shown us the ration card which shows that the Petitioner's structure has been existing in front of this Ramnath Tiwari Chawl. The ration card appears to have been issued in February 1987. The Petitioner has been provided with an alternate accommodation by Respondent No.5 in the transit building. This was of course because the structure had to be removed for construction which was being carried out. Shri Tiwari informs that most of the people in the transit building have been shifted to the regular building. He, therefore, submits that time has come that the Petitioner should also be shifted to a tenement of 225 sq.ft. area in the regular building. In our view, the decision under challenge is clearly erroneous considering the fact that the Petitioner was having his structure in front of the chawl which is now

being redeveloped. The structure is within the concerned survey number and the submission that it is extended to this survey number is not borne out by any record. Shri Tiwari on instructions of the Petitioner, who is present in Court states that the Petitioner is not claiming anywhere else on the basis of this structure. In the circumstances, we set aside this impugned order and hold the Petitioner to be eligible in rehabilitation project.

4. Shri Yadav on instructions from Respondent No.5 states that Respondent No.5 will accept this order. Accordingly Respondent No.5 will provide a regular alternate accommodation to the Petitioner in the permanent structure. The Petitioner will be permitted to continue in the transit arrangement until regular accommodation is provided to him. Regular accommodation will be provided within eight weeks. Shri Tiwari informs that the water supply and power connection has been disconnected to the Petitioner's transit accommodation. The Petitioner will be entitled to obtain the same in the meanwhile.

5. Rule is made absolute in the above terms.

(H.L.Gokhale, J.)

(Abhay S.Oka, J.)